



October 30, 2019

VIA EMAIL

UPC Slaughter
Claims Adjuster
LexisNexis

Email: cru.incoming@lexisnexisrisk.com

RE: 19-FOIA-243 Report - [REDACTED]

Dear UPC Slaughter:

Metra's FOIA Department ("FOIA Department") is responding to your request for information pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* ("**FOIA**").

I. Background

On August 22, 2019, the FOIA Department received your request for a report involving insured party [REDACTED]. ("**Request**"). Your Request is granted in part and denied in part.

II. Responsive Documents

In response to your Request, the FOIA Department is providing you with Metra Police report #MP-19-00025748, two (2) supplemental reports, and associated photographs. ("**Responsive Documents**").

The Metra Police Department does not maintain records of outside agencies. As such, records generated by the Cook County Medical Examiner's Office and the Winnetka Police Department may be requested by contacting those entities.

The Union Pacific North train that struck [REDACTED] is owned and operated by the Union Pacific Railroad ("UP"). We previously contacted the UP for any records it may possess regarding this incident. The UP responded that it does not honor FOIA requests, however, you may contact Ida Finnegan in UP's Risk Management department at 312-777-2023 for further information.

III. Partial Denial

While FOIA requires public bodies to provide access to public records generally, FOIA also authorizes units of government to withhold certain information. Therefore, Attorney Aruj Chaudhry has determined that the following portions of the Responsive Documents are exempt from disclosure under certain provisions of FOIA:

1. The employee identification number, passwords or other access codes, medical record, personal telephone number, home address, and personal license plate number of the parties mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(b) of FOIA, which exempts "private information." "Employee identification numbers," "passwords or other access codes," "medical records," "personal telephone numbers," "home addresses," and "personal license plate numbers" are

specifically mentioned within the definition of “private information” found in Section 2(c-5) of FOIA.

2. The dates of birth and physical descriptions of the parties, the name of a third-party, as well as the graphic depictions mentioned in the Responsive Documents are redacted because they are exempt from disclosure under Section 7(1)(c) of FOIA, which exempts “personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....” Section 7(1)(c) goes on to say that, “‘Unwarranted invasion of personal privacy’ means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information.” It has been determined that the aforementioned information falls squarely within that definition and its redaction is appropriate under FOIA.
3. Section 7(1)(a) of FOIA exempts “[i]nformation specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.” 5 ILCS 140/7(1)(a). Accordingly, the home address, date of birth, physical description, and driver’s license number of the parties mentioned in the Responsive Documents are exempt from disclosure per the Driver’s Privacy Protection Act, 18 U.S.C. § 2721 *et seq.*, which prohibits individuals from knowingly obtaining or disclosing “personal information” from a motor vehicle record.

IV. Denial

Certain graphic photographs contained within the Responsive Documents are denied in their entirety for the following reasons: The photographs contain information relating to the death of an individual. In the interest of protecting the personal privacy of the deceased, these documents are denied pursuant to the exemption found in Section 7(1)(c) of the FOIA, which exempts “personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....” Section 7(1)(c) goes on to say that, “‘Unwarranted invasion of personal privacy’ means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information.”

V. Right of Review

A person whose request to inspect or copy a public record was treated by the public body as a request for a commercial purpose under Section 3.1 of FOIA may file a request for review with the Public Access Counselor (“**PAC**”) of the Illinois Attorney General’s Office for the limited purpose of reviewing whether the public body properly determined that the request was made for a commercial purpose. 5 ILCS 140/9.5(b). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this partial denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this partial denial letter when filing a Request for Review with the PAC.

You also have the right to seek judicial review of your partial denial by filing a lawsuit in the circuit court. 5 ILCS 140/11.

Sincerely,



Kathleen E. Haton
Freedom of Information Officer
foia@metrarr.com
FOIA Hotline #312-663-3642

Attachments